IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

MFA.No. 676 of 1998(B)

OPMV.185/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR
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APPELLANTS:
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1. Mariakutty, wife of Moosa, Kuruthikuzhi House, Ezhuvanthala amsom, P.O. Nellaya, Ottapalam Taluk, Palakkad District.

2. Mohammed Hussain, S/o. Moosa, do. do.

3. Moideenkutty, S/o. do. do.

4. Soukath Ali, do. do.

5. Nazarath (now major), D/o. do. do.

6. Soudath (minor) D/o. do. do. represented by guardian mother Appellant No.1

BY ADV. SRI.C.RAMAN,
SMT.MEERA P.MENON

RESPONDENTS:

1.V.Mukundan, S/o. Padmavathi Amma, Vellalath House, Painkulam Village, Thozhuppadami desom, Thrissur District.

2. M.Sankaranarayanan Nair, Muthalangad House, Killimangalam, Thrissur District.

3. United India Insurance Company Limited, Thrissur Branch.

4. P.Hassan, S/o. Mohammed, Parakkal House, Narayamangalath, Cherpulachery, Ottapalam Tlauk, Palakkad District.

5.T.Chandran, S/o. Madhavan Nair, Thuvvakuth House, P.O. Kolathur, Malappuram District.

6. New India Assurance Company Limited, Branch Office, Malappuram.

7. V.Ravindran, Vellalath House, P.O. Venganallur, Chelakkara, Thrissur District.,

BY ADV. SRI.T.O.XAVIER FOR R5
SRI.E.R.VENKATESWARAN FOR R6
SRI.P.MURALEEDHARAN FOR R6
SRI.K.M.SALIM
SRI.P.JAYASANKAR FOR R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.Koshy & V. Giri, JJ.
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M.F.A.No.676 of 1998
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Dated this the 23rd day of August, 2007.

JUDGMENT

Koshy,J.

Husband of the first appellant died in a motor accident. He was a PWD contractor aged 50 years while he was travelling in a jeep, a bus driven negligently by the first respondent hit against the Jeep and he died on the same day. The bus was owned by the second respondent and insured with the third respondent. The Tribunal found that the accident occurred due to the negligent driving of the bus by the first respondent and it was duly insured with the third respondent - Insurance Company. However, against a claim of Rs.5,83,000/-, the Tribunal has awarded only Rs.1,83,000/-. Only the quantum of compensation is disputed and the liability of the Insurance Company has now become final.

2. The deceased was aged 50 years. The Tribunal has taken only 10 as the multiplier considering the second Schedule.

We are of the view that the multiplier need not be enhanced. The deceased was a PWD contractor. Ext.A6 is the employment certificate. Ext.P9 is the licence certificate. Ext.A10- is the copy of the contract licence certificate, which shows that he was a registered contractor. He was maintaining his wife and five children, out of which two were minors at the time of the accident. According to the claimants, his monthly income was Rs.7,500/-. No evidence is produced regarding the actual income, even though it was proved that he was a registered PWD contractor. PW1 in the box deposed that the deceased was getting Rs.7,500/- as monthly income. But in the absence of data, we are of the opinion that at least Rs.3,000/- ought to have been taken as the monthly income of the deceased. So, if Rs.3,000/- is taken as the monthly income, Rs.1,000/- (1/3rd) is to be deducted for the personal expenses and Rs.2,000/- will be the loss of dependency income to the family per month. If that was taken, the compensation payable will be Rs.2,40,000/- (2000x12x10). The Tribunal has fixed only Rs.1,60,000/-. Therefore, the claimants will be entitled to an additional compensation of Rs.80,000/-. We are of the opinion that no

enhancement is necessary in regard to compensation granted in other heads.

3. The additional amount of Rs.80,000/- should be deposited by the third respondent - Insurance Company with 7.5% interest from the date of application till the date of deposit. The amount can be disbursed to the claimants at the proportion mentioned by the Tribunal.

Appeal is partly allowed.

J.B.Koshy,
Judge.

V.Giri,
Judge.

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